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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,237

04/05/2006

Lopez Evelyne

BJS-3665-170

6246

23117

7590

05/03/2007

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EXAMINER

ARIANI, KADE

ART UNIT

PAPER NUMBER

1651

MAIL DATE

DELIVERY MODE

05/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,237

Applicant(s)

EVELYNE ET AL..

Examiner

Kade Ariani

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 16-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The preliminary amendment filed on 12/19/2005, has been received and entered.

Claims 1- 14 (1-15) have been canceled.

Claims 15- 28 (16-29) are pending in this application and were examined on their merits.

Claim Objections

Claims 15-28 are objected to because of the following informalities:

Claims 1-14 have been cancelled but since in the original listing prior to the preliminary amendments claims 1-15 were pending, therefore the numbering of the claims after preliminary amendments is incorrect.

Correction has been made under rule 126.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation " a device comprising lipids " in claim 28 is confusing and therefore indefinite, because from the way it is written it seems that it is the device that is

manufactured from the lipids, also claim 29 is indefinite because it is dependent on claim 28.

Claim Rejections - 35 USC § 102/103

Claim 16-27 rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Chamlin et al. (J. Am. Acad. Dermatol. 2002, Vol. 47, No.2, p. 198-208).

Claims 16-27 are drawn to a pharmaceutical composition comprising lipids in a pharmaceutically acceptable support, suitable for topical application, the composition further comprises at least one other therapeutically active ingredient.

Chamlin et al. discloses a pharmaceutical composition comprising lipids (ceramide-dominant lipids) for topical application, used as adjunct (topical corticosteroids) for the treatment of childhood atopic dermatitis (see Abstract & Discussion, column 2, lines 14-19), concentration between 0.02% and 3% by weight (p.199, column 2, lines 51-54). Therefore Chamlin et al. clearly anticipated the claimed composition.

It is noted that Chamlin et al. does not state lipids extracted from the mother of pearl. However, claims are directed a pharmaceutical composition comprising lipids, Chamlin et al. describes a pharmaceutical composition comprising lipids (ceramide-dominant lipids), the claimed lipids appear to be the same or similar to that of the prior art, therefore it must necessarily have the claimed properties.

Furthermore, claims 16-27 are drawn to "a pharmaceutical composition comprising lipids" and therefore are product-by-process claims, and the recitation "for the treatment of pathologies involving a decrease in flilaggrin activity..." is an intended use and does not impart structural differences between prior art and the claimed invention.

Conclusion

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kade Ariani whose telephone number is (571) 272-6083. The examiner can normally be reached on 9:00 am to 5:30 pm EST Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on (571) 272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

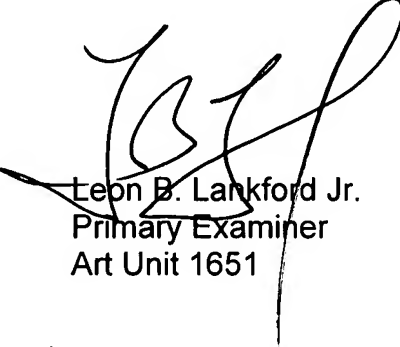
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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kade Ariani
Examiner
Art Unit 1651



Leon B. Lankford Jr.
Primary Examiner
Art Unit 1651